

E-Filed 10/29/10

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

PHONG K. NGUYEN,

Petitioner,

v.

BEN CURRY, Warden,

Respondent.

No. C 10-4126 RS (PR)

**ORDER DIRECTING PETITIONER
TO PAY FILING FEE OR FILE AN
APPLICATION TO PROCEED IN
FORMA PAUPERIS;**

INSTRUCTIONS TO CLERK

This is a federal habeas corpus action filed by a *pro se* state prisoner pursuant to 28 U.S.C. § 2254. Petitioner was ordered to file a complete application to proceed *in forma pauperis* (“IFP”), or pay the filing fee of \$5.00, by October 14, 2010, or face dismissal of the action. Petitioner has submitted neither, but, in a letter to the Court, asserts that the officials at Soledad State Prison said that they had sent off his IFP application. The Court, however, has received no such filing. Accordingly, within 30 days from the date of this order, petitioner must (1) pay the filing fee of \$5.00, or (2) file a completed IFP form along with the supporting documentation of a certificate of funds completed by an authorized prison officer **and** a prison trust account statement showing transactions for the last six months. Failure to comply with this order within 30 days will result in dismissal of the petition without further

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1 notice to petitioner. As this is petitioner's second notice regarding his compliance with the
2 filing fee requirement, **no extensions of time will be granted.**

3 The proper respondent in this action is Ben Curry, the current Warden at Soledad
4 State Prison, where petitioner is incarcerated, rather than the originally-named respondent,
5 WARDEN. *See* Fed. R. Civ. P. 25(d). Accordingly, the Clerk shall substitute BEN CURRY
6 as the respondent.

7 **IT IS SO ORDERED.**

8 DATED: October 28, 2010


RICHARD SEEBORG
United States District Judge

United States District Court
For the Northern District of California